IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 7069 (SS) OF 2001

Jagdish Chandra Bhatt
Aged about 42 years,
S/o late Shri Balkrishna Bhatt,
R/o Raj Bhawan Campus,
Nainital. .....Petitioner.

Versus

1. State of Uttaranchal, through the Secretary,
   Public Works Department,
   Government of Uttaranchal, Secretariat,
   Dehradun.
2. Chief Engineer, Public Works Department,
   Dehradun, Uttaranchal.
3. Executive Engineer, Nirman Khand, Public Works
   Department, Nainital.

.....Respondents.

Ms. Menka Tripathi, Advocate for the petitioner.
Learned Standing Counsel for the respondents.

Dated : 06.03.2006

Hon'ble Rajesh Tandon, J.

By the present writ petition, the petitioner has prayed for a writ of mandamus commanding the opposite parties to regularize the services of the petitioners a "Wireman" in the establishment of the opposite parties and to pay him his arrears of salary for the post of "Wireman" w.e.f. October, 1991. Further prayer has been made for a writ of mandamus commanding the opposite parties to pay the salary to the petitioner in regular scale as admissible to a person working on regular basis on the post of "Wireman" together with all

other consequential benefits which are admissible to a regularly selected employee.

Briefly stated, the petitioner was appointed as Beldar on daily wage basis in the establishment of the opposite parties at Raj Bhawan, Nainital w.e.f. 1980 on a consolidated salary of Rs. 6/- per day. Thereafter, w.e.f. 1983, the petitioner was assigned the work of a “Wireman Assistant”. Subsequently, the petitioner was regularized on the post of “Beldar” w.e.f. 16.03.1991 though he was performing the work of a “Wireman Assistant.”

Petitioner has submitted that in the month of October, 1991, the post of “Wireman” in the Raj Bhawan, Nainital became vacant due to retirement of one Sri Diwan Singh. In his place, the petitioner, who was working as “Wireman Assistant” was assigned the work of “Wireman” w.e.f. October, 1991.

The petitioner has submitted that he is getting the pay scale of Beldar which is 2550-3250 though he is performing the work of a “Wireman” w.e.f. October, 1991. The pay scale of a “Wireman” is 3050 to which the petitioner is entitled.

Petitioner has submitted that he has filed a representation on 28.09.1999 stating his grievances, but no action has been taken by the authorities except on 01.01.2000 the office of the respondent no. 2, has informed to the petitioner that the post of “Wireman” was not vacant.

The grievance of the petitioner is that he has worked continuously for more than 10 years without any break and ever since the retirement of Sri Deewan Singh, no one has been appointed on the said post, but he is not being paid the pay scale of the Wireman.

A counter affidavit has been filed, where in paragraph 5 it has been stated that the petitioner is getting regular salary of

Beldar and it is wrong to say that he had ever been appointed as Wire-man and the question of appointment for the post of Wire-man does not arise.

However, liberty to given to the petitioner to file a fresh representation before the authority concerned within a period of two weeks from the date of presentation of the certified copy of the order. If such a representation is filed, respondents are directed to dispose of the same along with the old representation-dated 22.06.2000 within a period of one month thereafter. In the meantime the petitioner shall be paid minimum of the pay scale.

Writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

06.03.2006
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